

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ethan De Angelo	Team: Squad #1	CCRB Case #: 201500481	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Monday, 10/27/2014 11:45 AM	Location of Incident: § 87(2)(b)	Precinct: 47	18 Mo. SOL 4/27/2016	EO SOL 4/27/2016	
Date/Time CV Reported Wed, 01/21/2015 4:28 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 01/22/2015 4:28 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Giuseppe Deangelis	15535	946900	PSA 8
2. POM Ignazio Debellis	12231	938333	PSA 8
3. An officer			PSA 8

Officer(s)	Allegation	Investigator Recommendation
A.POM Ignazio Debellis	Force: PO Ignazio Debellis used physical force against § 87(2)(b)	§ 87(2)(b)
B.POM Giuseppe Deangelis	Force: PO Giuseppe Deangelis used physical force against § 87(2)(b)	§ 87(2)(b)
C.POM Giuseppe Deangelis	Force: PO Giuseppe Deangelis used pepper spray against § 87(2)(b)	§ 87(2)(b)
D. An officer	Force: An officer used physical force against § 87(2)(b)	§ 87(2)(b)
E.POM Giuseppe Deangelis	Force: PO Giuseppe Deangelis pointed his gun at § 87(2)(b)	§ 87(2)(b)
F.POM Ignazio Debellis	Force: PO Ignazio Debellis struck § 87(2)(b) with a nightstick.	§ 87(2)(b)

Case Summary

On October 27, 2014, at 11:45 a.m., PO Giuseppe Deangelis and PO Ignazio Debellis responded to § 87(2)(b) in the Bronx. They were called to the apartment by § 87(2)(b) to remove her son, § 87(2)(b) from the apartment. § 87(2)(b) does not live in the apartment, and refused to leave. § 87(2)(b)'s ex-boyfriend, § 87(2)(b) was also home at the time. After refusing to leave the apartment, PO Debellis and PO Deangelis attempted to physically remove him from the apartment, however he resisted their efforts to do so (**Allegation A and B**). PO Deangelis then pepper sprayed § 87(2)(b) (**Allegation C**), who proceeded to run to the rear bedroom of the apartment. § 87(2)(b) alleged that one of the officers, whom he was unable to see due to having his back turned, punched him in the left shoulder, the back, and the back of the head multiple times as he ran deeper into the apartment (**Allegation D**). PO Deangelis entered the room with his gun drawn and allegedly pointed it at § 87(2)(b) (**Allegation E**). During the course of the struggle PO Debellis allegedly struck § 87(2)(b) in the head with his nightstick, causing a laceration to the top of his head (**Allegation F**). § 87(2)(b) was subsequently apprehended and transported to § 87(2)(b) where he received six staples to close the head wound. He was charged with § 87(2)(a) 160.50, § 87(2)(b).

Mediation, Civil and Criminal Histories

- This complaint was ineligible for mediation because of the injuries that § 87(2)(b) sustained in addition to the lawsuit that he subsequently filed.
- § 87(2)(b) filed a Notice of Claim with the City of New York on § 87(2)(b) claiming assault, battery, false arrest, emotional distress, physical pain/injury, illegal search and seizure, loss of liberty, loss of dignity and reputation, malicious prosecution, and is seeking \$1,000,000 as redress (See Board Review #04). On June 10, 2015, the undersigned emailed § 87(2)(b) for an update on the status of § 87(2)(b)'s civil suit. § 87(2)(b) responded to the undersigned on June 10, 2015, and stated that a 50-H hearing has been scheduled for § 87(2)(b).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
- IAB concluded its investigation into this matter and unsubstantiated the allegation regarding the nightstick strike to § 87(2)(b)'s head, and unfounded § 87(2)(b)'s allegation that he was punched in the back, and the back of the head while running away from the officers inside the apartment.

Civilian and Officer CCRB Histories

- § 87(2)(b) was named as a victim in complaint § 87(2)(b)
- PO Giuseppe Deangelis has been a member of the service for nine years, and there are no substantiated CCRB allegations against him, § 87(2)(g)
- PO Ignazio Debellis has been a member of the service for six years, and there are no substantiated CCRB allegations against him, § 87(2)(g)

Attempts to Contact Witnesses

On March 13, 2015, § 87(2)(b) scheduled an interview at the CCRB for March 17, 2015. At the time she did not have a telephone number or address for § 87(2)(b). § 87(2)(b) called on March 17 and rescheduled her interview for March 23, 2015. She missed her interview, and a missed appointment letter was sent the same day. On March 30, 2015, the undersigned spoke with § 87(2)(b) and rescheduled her interview for April 1, 2015. She called on April 1 and rescheduled for April 8, 2015. § 87(2)(b) told the undersigned that she had broken up with § 87(2)(b) since the incident and did not know where he lived, but provided a telephone number for him. On April 8, 2015, § 87(2)(b) missed her second scheduled interview. She called the same day and said that she did not want to testify, as she was testifying on behalf of the officers against her son in the criminal case. She said that the officers did not do anything wrong during the incident. The undersigned explained that the investigation was impartial, and not for her son. § 87(2)(b) rescheduled her interview for April 14, 2015, however, she missed that appointment as well. The undersigned called and left message for § 87(2)(b) on April 20 and April 21, 2015, regarding rescheduling her interview, and offered to do the interview via telephone. A check of the NYC Department of Corrections website on April 21, 2015, was negative for § 87(2)(b) and to date she had failed to contact the CCRB to provide a statement.

On March 23, 2015, the undersigned sent a please call letter to § 87(2)(b) at § 87(2)(b). A Lexis Nexis run for § 87(2)(b) the same day did not provide any addresses for him. Between April 2, 2015, and April 9, 2015, the undersigned called and left five messages for the number provided for § 87(2)(b) by § 87(2)(b). The voice mailbox confirmed that the number belonged to § 87(2)(b). A check of the NYC Department of Corrections website on April 21, 2015, was negative for § 87(2)(b) and to date he had failed to contact the CCRB to provide a statement.

Finding and Recommendations

Allegation A – Force: PO Ignazio Debellis used physical force against § 87(2)(b)

Allegation B – Force: PO Giuseppe Deangelis used physical force against § 87(2)(b)

It is undisputed § 87(2)(g) that the officers gave § 87(2)(b) approximately fifteen minutes to gather his belongings before being required to vacate § 87(2)(b)'s apartment. § 87(2)(b) alleged that as he was walking out of the apartment PO Deangelis grabbed him by the front of his collar and tried to pull him out of the apartment. § 87(2)(b) pulled back, away from him, put his hands above his head, and said that he was not resisting arrest. § 87(2)(b) denied making contact with either of the officers or fighting with them. PO Deangelis tried to pull him out of the apartment for approximately one to two minutes, but was unable to do so because § 87(2)(b) pulled away from him. PO Deangelis repeatedly told § 87(2)(b) to come out of the apartment; however he refused. In his statement to IAB, § 87(2)(b) said that he did not want to leave the apartment, and that the officers “escalated the situation” by grabbing him.

§ 87(2)(b) told IAB investigators, (See Board Review #3), PO Deangelis and PO Debellis were very patient with § 87(2)(b) and that § 87(2)(b) became aggressive with them by stating, “Fuck you cops, I’m not going anywhere,” and continually cursed at them. She stated that both officers remained calm and attempted to extricate § 87(2)(b) without using any force for approximately 30 minutes before ultimately attempting to remove him by force. § 87(2)(b) initiated the violence however, by kicking, punching, and swinging at the officers multiple times.

§ 87(2)(b) corroborated § 87(2)(b)'s statements and told IAB investigators, (See Board Review #3), that § 87(2)(b) refused multiple verbal requests to leave the apartment before violently resisting.

PO Deangelis and PO Debellis were consistent that when they responded § 87(2)(b) told them that § 87(2)(b) had refused to leave, and that he would likely give the officers a hard time. After the fifteen minutes, § 87(2)(b) refused to leave the apartment despite their verbal commands to do so. When they tried to physically escort him out of the apartment by grabbing his arms and pulling him out, § 87(2)(b) became aggressive and physically violent, kicking and punching at the officers. Both PO Deangelis and PO Debellis sustained injuries as a result of the incident, which was corroborated by their AIDED and LOD reports, (See Board Review #6), causing them to miss several days of work after the incident. They struggled with § 87(2)(b) for several minutes before PO Deangelis removed his pepper spray and sprayed § 87(2)(b).

According to Patrol Guide Procedure 203-11, an officer must use the minimum necessary force during a police interaction (See Board Review #5).

§ 87(2)(g)

Allegation C – Force: PO Giuseppe Deangelis used pepper spray against § 87(2)(b)

It is undisputed that PO Deangelis pepper sprayed § 87(2)(b) in the kitchen after he and PO Debellis were initially unsuccessful in extricating him from the apartment with “firm grip” techniques.

As discussed above, § 87(2)(b) refused multiple verbal commands to exit the apartment, and violently resisted the officers’ efforts to remove him from the apartment and arrest him.

According to Patrol Guide Procedure 203-11, an officer must use the minimum necessary force during a police interaction (See Board Review #5). According to Patrol Guide Procedure 212-95, pepper spray may be used when an officer reasonably believes it is necessary to affect an arrest of a resisting suspect, in situations where physical presence and verbal commands have not been effective in overcoming physical resistance (See Board Review #5).

§ 87(2)(g)

Allegation D – Force: An officer used physical force against § 87(2)(b)

In his CCRB statement § 87(2)(b) alleged that as he was running away from the officers towards the rear bedroom, one of them punched him in the left shoulder, the back, and the back of the head multiple times. He was unable to specify how many times he had been punched in each body part. In his statement to IAB, which was made the same day as the incident, § 87(2)(b) said that the officers punched him “about the body” during the initial portion of the altercation, prior to fleeing into the back room. In his statements to medical personnel, § 87(2)(b) only mentioned the nightstick strikes, and did not mention anything about the officers punching him.

In their statements to IAB, neither § 87(2)(b) nor § 87(2)(b) alleged seeing either PO Deangelis or PO Debellis punch § 87(2)(b) as he ran away from them into the rear of the apartment.

PO Deangelis and PO Debellis both denied punching § 87(2)(b) at any point during the incident, including as he was running toward the back room.

§ 87(2)(g)

Allegation E – Force: PO Giuseppe Deangelis pointed his gun at § 87(2)(b)

It is undisputed by virtue of consistent witness and officer testimony that after the initial altercation in the kitchen, § 87(2)(b) then ran into a rear bedroom of the apartment. It is also undisputed by virtue of PO Deangelis’ testimony that he drew his gun as he entered the back room.

§ 87(2)(b) further alleged that PO Deangelis pointed the gun at him when he entered the room. Neither § 87(2)(b) nor § 87(2)(b) made statements to IAB investigators regarding to whether they saw an officer point their gun at § 87(2)(b)

PO Deangelis testified that after § 87(2)(b) ran into the back room, he drew his gun and pointed it at the ground, as he did not know what § 87(2)(b) was doing in the back room, or if he was reaching for a weapon. PO Deangelis entered the room and saw § 87(2)(b) hiding behind the bed. His hands were hanging down, and PO Deangelis saw that he was not holding anything, at which point he holstered his gun. At no point was it pointed at § 87(2)(b)

PO Debellis did not see whether PO Deangelis had his gun drawn or whether he pointed it at § 87(2)(b). He was consistent that § 87(2)(b) was hiding behind the bed, and that he was initially unable to see his hands.

According to NYPD v. Gliner, an officer can draw and point his firearm at another person so long as he reasonably fears for his safety (OATH Case No. 995/00) (See Board Review #9).

§ 87(2)(g)

§ 87(2)(g)

Allegation F – Force: PO Ignazio Debellis struck § 87(2)(b) with a nightstick.

It is undisputed by virtue of § 87(2)(b)'s medical records that he sustained a two to three inch laceration on the top of his head, for which he received six staples.

In his statement to IAB, § 87(2)(b) alleged that he was struck on top of the head with the nightstick. In his CCRB statement, § 87(2)(b) alleged that PO Debellis struck him with the nightstick one time in the head as he ran to the back room. When asked further about the nightstick blow, § 87(2)(b) alleged that he was struck once in the head on the way to the bedroom, and then struck again once in the head and once in the ribs. § 87(2)(b) was unable to tell the investigation whether he was struck in the same place on the head or a different place.

§ 87(2)(b) later changed his story a second time and said that PO Debellis stuck him “continuously” and all over his body, but was unable to specify where he was hit, or how many times.

In her statement to IAB, § 87(2)(b) alleged that as the officers struggled with § 87(2)(b) one of them struck § 87(2)(b) in the head with their baton. She further alleged that she saw blood coming from § 87(2)(b)'s head, and that she believed it was a result of him being struck with a baton.

In his statement to IAB, § 87(2)(b) alleged that as § 87(2)(b) was fighting with the officers, one of the officers struck § 87(2)(b) in the head with their baton twice. He stated that § 87(2)(b) was moving around and swinging when he was struck with the baton.

PO Debellis testified that he removed his nightstick and struck § 87(2)(b) two times in the left side of his body. He struck § 87(2)(b) from the side, and did not swing from the top down. He denied that he struck § 87(2)(b) in the head with the nightstick. After § 87(2)(b) was apprehended, PO Debellis and PO Deangelis removed him from the apartment. PO Debellis noticed that § 87(2)(b)'s head was bleeding as they escorted him outside. PO Debellis did not notice any injuries while they were handcuffing him, and did not know how he sustained the injury. PO Debellis did not offer any alternative possibility, or explanation whatsoever, as to how § 87(2)(b) sustained the injury to his head.

PO Deangelis saw PO Debellis swing the nightstick at least one time; however, he did not see where it landed. He did not see PO Debellis strike § 87(2)(b) in the head with the nightstick. When they removed § 87(2)(b) from the apartment, PO Deangelis saw that § 87(2)(b) had blood on his head and his shirt; however he did not know where it was coming from. Outside of the apartment § 87(2)(b) complained of being hurt, and PO Deangelis saw that he had blood on his head, however he did not know what specific injuries § 87(2)(b) sustained.

As discussed above, an officer must use the minimum necessary force during a police interaction. Deadly physical force is only justified when the officer believes that the perpetrator is about to use deadly physical force, and is to only be used to protect against imminent death or serious physical injury (See Board Review #11). Baton strikes are generally considered regular use of physical force; however, a baton strike to the head is considered deadly physical force, NYPD v. Bolusi, OATH Index No. 583/92 (June 5, 1992) (See Board Review #9).

§ 87(2)(g)

§ 87(2)(g)

[REDACTED]

Pod: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date